



## The 2013 Federal Adoption Tax Credit

*Updated January 2014*

For adoptions finalized in 2013, there is a federal adoption tax credit of up to \$12,970 per child. The 2013 adoption tax credit is NOT refundable, which means taxpayers can only get the credit refunded if they have federal income tax liability (*see page 2*).

The credit is paid one time *for each adopted child*, and should be claimed when taxpayers file taxes for 2013.

To be eligible for the credit, parents must:

- **Have adopted a child other than a stepchild** — A child must be either under 18 or be physically or mentally unable to take care of him or herself.
- **Be within the income limits** — How much of the credit parents claim is affected by income. In 2013, families with a modified adjusted gross income below \$194,580 can claim full credit. Those with incomes above \$234,580 cannot claim the credit; those with incomes from \$194,580 to \$234,580 can claim partial credit.

### The Amount of Credit to Be Claimed

Families who finalize the adoption of a child with special needs in 2013 (*see details at right*) can claim the full credit of \$12,970 whether or not they had any expenses.

*Example — A woman adopts three of her grandchildren from foster care and the state paid all of the fees. All three children receive monthly adoption assistance benefits and thus are considered special needs. The grandmother earns less than \$194,580 so can claim the full credit of \$12,970 per child for a total of \$38,910. How much the grandmother actually receives, however, will depend on her tax liability (explained on page 2).*

Other adopters can claim a credit based on their qualified adoption expenses, which are the reasonable and necessary expenses paid to complete the adoption as long as those expenses are not reimbursed by anyone else. If the expenses are less than \$12,970, the adopters claim only the amount of the expenses. If expenses exceed \$12,970, the maximum to be claimed is \$12,970 per child.

*Example — A couple adopted two children from China and had \$40,000 in legal, travel, and agency fees. They received a grant of \$20,000, leaving them with \$20,000 in qualified adoption expenses. They can claim only \$20,000 (not the maximum \$25,940 they might have been eligible for had their expenses been higher). If their modified adjusted gross income was between \$194,580 and*

*\$234,580, they would receive only a portion of the credit, since the credit begins to phase out at incomes of \$194,580.*

### When to Claim the Credit

Parents who adopt a child with special needs and are not basing their request on expenses claim the credit the year of finalization. Parents who adopt internationally cannot claim the credit until the year of finalization. Parents who are adopting from the U.S. and claiming qualified adoption expenses can claim the credit the year of finalization or the year after they spent the funds.

*Example — A family begins adopting a U.S. infant in 2011 and incurs \$4,000 in expenses in 2011, \$5,000 in 2012, and \$3,000 in 2013. The adoption finalizes in 2013. The parents must file for the \$4,000 spent in 2011 on their 2012 taxes. They cannot claim the \$5,000 and \$3,000 until they file their 2013 taxes.*

### Qualifying as Special Needs

Families who finalized in 2013 the adoption of a child who has been determined to have special needs can claim the full credit of \$12,970 regardless of their adoption expenses. The credit for all other adopted children is based on the family's qualified adoption expenses.

Basically, a child with special needs is a U.S. foster child who receives adoption subsidy or adoption assistance program benefits (which can include a monthly payment, Medicaid, or reimbursement of nonrecurring expenses). The instructions for the 2013 tax credit explain that to be considered a child with special needs, the child must meet all three of the following characteristics:

1. "The child was a citizen or resident of the United States or its possessions at the time the adoption effort began (US child).
2. A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents' home.
3. The state has determined that the child will not be adopted unless assistance is provided to the adoptive parents. Factors used by states to make this determination include:
  - The child's ethnic background and age,
  - Whether the child is a member of a minority or sibling group, and
  - Whether the child has a medical condition or a physical, mental, or emotional handicap."

Just because a child is disabled does not mean the child is special needs under the tax credit. No child adopted internationally is considered special needs for the adoption tax credit. Not even every child adopted from foster care is considered special needs (about 10 percent of children adopted from care do not receive adoption assistance support). **Those who do not receive any support from the adoption assistance program are likely not to have been determined to have special needs.**

Bottom line, if your child does not receive adoption subsidy/adoption assistance benefits, you will likely have to have qualified expenses to claim the credit.

### How Much Taxpayers Will Benefit

How much, if any, of the adoption tax credit a parent will receive depends on their federal income tax liability in 2013 (and the next five years). In one year, taxpayers can use as much of the credit as the full amount of their federal income tax liability, which is the amount on line 46 of the Form 1040 less certain other credits (see Child Tax Credit below). Even those who normally get a refund may still have tax liability and could get a larger refund with the adoption tax credit. Taxpayers have six years (the year they first claimed the credit plus five additional years) to use the credit.

People who do not have federal income tax liability will not benefit. We encourage them to claim the credit and carry it forward to future years since the credit may become refundable again in the future.

Below are a couple of examples of how the tax credit might benefit families who finalized adoptions in 2013. (These are simplified examples, which do not take into account the Child Tax Credit explained below.)

*Example 1 — A couple adopted two brothers who had been determined to have special needs. The parents had \$6,500 in federal income tax withheld from their paychecks, and their tax liability is \$7,000, which means they would normally owe \$500 to the IRS. Their adoption tax credit is \$25,940, and they can use \$7,000 (their tax liability) of that with their 2013 taxes. They get a refund of the \$6,500 they had already paid, and can carry over \$18,940 for up to five more years.*

*Example 2 — A couple adopted three siblings with special needs. They had \$1,000 in federal income tax withheld from their paychecks, and their tax liability is \$0, which means they would receive a refund of \$1,000. They have \$38,910 in the adoption tax credit, but they cannot use it with their 2013 taxes since they have no federal tax*

## Adoptions from Previous Years

Families who adopted between 2005 to 2012 who have not already claimed the adoption credit for those adoptions *may* still be able to benefit for those adoptions. To learn more about the credit for previous years' adoptions, visit [www.nacac.org/taxcredit/taxcredit.html](http://www.nacac.org/taxcredit/taxcredit.html) or call NACAC at 651-644-3036.

*liability. They should still file Form 8839 with their 2013 tax return so that they can carry the credit forward for up to five additional years in case their tax liability goes up in the future or the credit becomes refundable.*

### Interaction with the Child Tax Credit

If parents can claim their child as a dependent, then they should also look into the Child Tax Credit. The Child Tax Credit and the Adoption Tax Credit interact and may reduce the Child Tax Credit a family can claim. To determine the amount of the Child Tax Credit they can use, a family must complete the Child Tax Credit Worksheet in IRS Publication 972.

Taxpayers who can answer Yes on the last line of the Child Tax Credit Worksheet may be eligible for the Additional Child Tax Credit, which is a refundable credit (meaning they can claim the credit regardless of their tax liability). To claim the Additional Child Tax Credit, parents must complete IRS Form 8812.

### Claiming the Credit

To claim the credit, taxpayers will complete a 2013 version of IRS Form 8839 (available at [irs.gov](http://irs.gov)) and submit it with their Form 1040 when they file their 2013 taxes. Before filing, taxpayers should review 2013 Form 8839 instructions (also available at [www.irs.gov](http://www.irs.gov)) very carefully to be sure that they apply for the credit correctly. The instructions are needed to calculate tax liability and thus how much of the credit will be received.

The instructions state that taxpayers may e-file their tax return to claim the adoption tax credit, there is no requirement to paper file the return. There is no requirement to submit documentation in 2013 (documentation was required in 2010 and 2011 when the adoption credit was refundable).

**For more information, visit [www.nacac.org/taxcredit/taxcredit.html](http://www.nacac.org/taxcredit/taxcredit.html), e-mail [taxcredit@nacac.org](mailto:taxcredit@nacac.org), or call 800-470-6665. NACAC is not a tax professional organization and this information should not be considered to be legal or tax advice.**

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